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In re Application of HAVERI
U.S. Application No.: 10/511,068
PCT Application No.: PCT/IB03/01052
Int. Filing Date: 14 March 2003

Priority Date Claimed: 22 March 2002
Attorney Docket No.: 2532-00358
For: PARAMAGNETIC OXYGEN SENSING
APPARATUS AND METHOD

DECISION

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed 12 October 2004.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/IB03/01052, which claimed priority of an earlier United States application filed 22 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 September 2004.

International application PCT/IB03/01052 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "the entire delay in entering the national stage in the United States from the due date for same until the filing of grantable petition pursuant to the above paragraph was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 October 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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